

Fulton County Superior Court  
\*\*\*EFILED\*\*\*MH  
Date: 8/7/2017 5:30:46 PM  
Cathelene Robinson, Clerk

IN THE SUPERIOR COURT OF FULTON COUNTY  
STATE OF GEORGIA

DONNA CURLING, an individual; )  
 )  
COALITION FOR GOOD )  
GOVERNANCE, a non-profit corporation )  
organized and existing under Colorado )  
Law; )  
 )  
DONNA PRICE, an individual; )  
 )  
JEFFREY SCHOENBERG, an individual; )  
 )  
LAURA DIGGES, an individual; )  
 )  
WILLIAM DIGGES III, an individual; )  
 )  
RICARDO DAVIS, an individual; )  
 )  
Plaintiffs, )  
 )  
v. ) CIVIL ACTION  
 ) FILE NO.: 2017CV292233  
BRIAN P. KEMP, in his individual )  
capacity and his official capacity as )  
Secretary of State of Georgia and )  
Chair of the STATE ELECTION BOARD; ) DEMAND FOR  
 ) JURY TRIAL  
DAVID J. WORLEY, REBECCA N. )  
SULLIVAN, RALPH F. "RUSTY" )  
SIMPSON, and SETH HARP, in their )  
individual capacities and their official )  
capacities as members of the STATE )  
ELECTION BOARD; )

)  
THE STATE ELECTION BOARD; )  
 )  
RICHARD BARRON, in his individual )  
capacity and his official capacity as )  
Director of the FULTON COUNTY )  
BOARD OF REGISTRATION AND )  
ELECTIONS; )  
 )  
MARY CAROLE COONEY, VERNETTA )  
NURIDDIN, DAVID J. BURGE, STAN )  
MATARAZZO, AARON JOHNSON, )  
and MARK WINGATE, in their individual )  
capacities and official capacities as )  
members of the FULTON COUNTY )  
BOARD OF REGISTRATION AND )  
ELECTIONS; )  
 )  
THE FULTON COUNTY BOARD OF )  
REGISTRATION AND ELECTIONS; )  
 )  
MAXINE DANIELS, in her individual )  
capacity and her official capacity as )  
Director of the DEKALB COUNTY )  
BOARD OF REGISTRATION AND )  
ELECTIONS; )  
 )  
MICHAEL P. COVENY, ANTHONY )  
LEWIS, LEONA PERRY, SAMUEL )  
E. TILLMAN, and BAOKY N. VU )  
in their individual capacities and official )  
capacities as members of the DEKALB )  
COUNTY BOARD OF REGISTRATIONS )  
AND ELECTIONS; )  
 )

THE DEKALB COUNTY BOARD OF )  
REGISTRATIONS AND ELECTIONS; )  
 )  
JANINE EVELER, in her individual )  
capacity and her official capacity as )  
Director of the COBB COUNTY )  
BOARD OF ELECTIONS AND )  
REGISTRATION; )  
 )  
PHIL DANIELL, FRED AIKEN, JOE )  
PETTIT, JESSICA BROOKS, and )  
DARRYL O. WILSON in their individual )  
capacities and official capacities as )  
members of the COBB COUNTY )  
BOARD OF ELECTIONS AND )  
REGISTRATION; )  
 )  
THE COBB COUNTY BOARD OF )  
ELECTIONS AND REGISTRATION; )  
 )  
MERLE KING, in his individual capacity )  
and his official capacity as Executive )  
Director of the CENTER FOR ELECTION )  
SYSTEMS AT KENNESAW STATE )  
UNIVERSITY; and )  
 )  
THE CENTER FOR ELECTION )  
SYSTEMS AT KENNESAW STATE )  
UNIVERSITY )  
 )  
Defendants. )

**MOTION FOR LEAVE TO SERVE ELECTION CONTEST DEFENDANTS  
AND CANDIDATES BY CERTIFIED PROCESS SERVER**

COME NOW, Plaintiffs in the above-styled case to move this Court respectively to grant them leave to serve Defendants of Counts IV and V of its Complaint (“election contest claims”) and the affected candidates with special process for their election contest claims by certified process server (“Motion”). Furthermore, for the reasons described below, Plaintiffs respectfully request that this Court either grant Plaintiffs’ Motion without further briefing or set an expedited briefing schedule. A proposed order is attached as Exhibit 1.

**I. Argument and Citation to Supporting Authority**

Georgia Code Section 21-2-524(f) states that Defendants and candidates in election contest claims under Section 21-2-521 shall be served special process by sheriff.

Georgia Code Section 21-2-525(b) states that:

The court having jurisdiction of the action shall have plenary power, throughout the area in which the contested primary or election was conducted, to make, issue, and enforce all necessary orders, rules, processes, and decrees for a full and proper understanding and final determination and enforcement of the decision of every such case, *according to the course of practice in other civil cases under the laws of this state*, or which may be necessary and proper to carry out this chapter[;]

*Id.* (emphasis added). Georgia Code Section 9-11-4(b) states that, generally in actions of a civil nature, service to defendants may be rendered by certified process server.

Although the sheriff's offices have attempted service and will continue to do so, Plaintiffs seek to supplement this method of service with a private process server to facilitate service of special process in this expedited election contest. For reason of efficiency, Plaintiffs therefore request that this Court grant leave for Defendants and election candidates in their election contest claims to be served by certified process server pursuant to Georgia Code Sections 21-2-525(b) and 9-11-4(b).

Because this matter includes an election contest, Plaintiffs understand that the matter is to be handled with all due expediency. *See O.C.G.A. 21-2-524 et seq.* For that reason and because Plaintiffs seek the order requested so as to expedite service to Defendants and the candidates in the election contest, Plaintiffs respectfully request that this Motion be granted without the need for a briefing from Defendants or candidates or, if it deems briefing necessary, that the Court set an expedited briefing schedule.

## **II. Conclusion**

For the foregoing reasons, Plaintiffs respectfully request this Court to grant this Motion.

This 7<sup>th</sup> day of August 2017.

/s/ Bryan Ward

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## EXHIBIT 1

IN THE SUPERIOR COURT OF FULTON COUNTY  
STATE OF GEORGIA

DONNA CURLING, an individual; )  
COALITION FOR GOOD )  
GOVERNANCE, a non-profit corporation )  
organized and existing under Colorado )  
Law; )  
DONNA PRICE, an individual; )  
JEFFREY SCHOENBERG, an individual; )  
LAURA DIGGES, an individual; )  
WILLIAM DIGGES III, an individual; )  
RICARDO DAVIS, an individual; )  
Plaintiffs, )  
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BRIAN P. KEMP, in his individual ) FILE NO.: 2017CV292233  
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Secretary of State of Georgia and )  
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SULLIVAN, RALPH F. “RUSTY” )  
SIMPSON, and SETH HARP, in their )  
individual capacities and their official )  
capacities as members of the STATE )  
ELECTION BOARD; )  
THE STATE ELECTION BOARD; )  
RICHARD BARRON, in his individual )  
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Director of the FULTON COUNTY )  
BOARD OF REGISTRATION AND )  
ELECTIONS; )  
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MARY CAROLE COONEY, VERNETTA )  
NURIDDIN, DAVID J. BURGE, STAN )  
MATARAZZO and AARON JOHNSON )  
in their individual capacities and official )  
capacities as members of the FULTON )  
COUNTY BOARD OF REGISTRATION )  
AND ELECTIONS; )  
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THE FULTON COUNTY BOARD OF )  
REGISTRATION AND ELECTIONS; )  
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MAXINE DANIELS, in her individual )  
capacity and her official capacity as )  
Director of VOTER REGISTRATIONS )  
AND ELECTIONS FOR DEKALB )  
COUNTY; )  
 )  
MICHAEL P. COVENY, ANTHONY )  
LEWIS, LEONA PERRY, SAMUEL )  
E. TILLMAN, and BAOKY N. VU )  
in their individual capacities and official )  
capacities as members of the DEKALB )  
COUNTY BOARD OF REGISTRATIONS )  
AND ELECTIONS; )  
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THE DEKALB COUNTY BOARD OF )  
REGISTRATIONS AND ELECTIONS; )  
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JANINE EVELER, in her individual )  
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Director of the COBB COUNTY )  
BOARD OF ELECTIONS AND )  
REGISTRATION; )  
 )  
PHIL DANIELL, FRED AIKEN, JOE )  
PETTIT, JESSICA BROOKS, and )

DARRYL O. WILSON in their individual capacities and official capacities as members of the COBB COUNTY BOARD OF ELECTIONS AND REGISTRATION; )  
THE COBB COUNTY BOARD OF ELECTIONS AND REGISTRATION; )  
MERLE KING, in his individual capacity and his official capacity as Executive Director of the CENTER FOR ELECTION SYSTEMS AT KENNESAW STATE UNIVERSITY; and )  
THE CENTER FOR ELECTION SYSTEMS AT KENNESAW STATE UNIVERSITY )  
Defendants. )

**[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR LEAVE TO SERVE ELECTION CONTEST DEFENDANTS AND CANDIDATES BY CERTIFIED PROCESS SERVER**

With respect to Plaintiffs' Motion for Leave to Serve Election Contest Defendants and Candidates by Certified Process Server, it is hereby

ORDERED that Motion for Leave to Serve Election Contest Defendants and Candidates by Certified Process Server is GRANTED; and

ORDERED that Plaintiffs have leave to serve Defendants of Counts IV and V of its Complaint ("election contest claims") and the affected candidates with special process for their election contest claims via certified process server ("Motion").

ORDERED this \_\_\_\_ day of August 2017.

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Judge Constance C. Russell

Proposed Order Submitted by:

/s/ Bryan Ward

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